

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

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:
RICHARD C. TOLBERT, :
:
Plaintiff, :
:
VS. : **CIVIL ACTION FILE**
KELVIN ROBERTS, et al., : **NO. 1:04-CV-72 (WLS)**
:
:
Defendants. :

RECOMMENDATION OF DISMISSAL

On June 27, 2006, the undersigned entered an order herein denying this *pro se* plaintiff's motion for a pre-trial hearing as being premature due to pending motions for summary judgment (doc. 50). Plaintiff's service copy of that order was mailed to him at his last known address, the Fulton County Jail on June 28, 2006, and returned to the Office of the Clerk of Court as undeliverable at that address on July 11, 2006. The last contact with the court initiated by the plaintiff occurred on September 23, 2005, wherein he filed a response in opposition to defendants' motion for summary judgment (doc. 48). In view of the above, the undersigned ordered plaintiff on August 9, 2006, to show cause by August 31, 2006, why his complaint should not be dismissed for his failure to keep the court informed of his current address at all times during the pendency of this lawsuit (docs. 7 & 51). On August 23, 2006, the plaintiff's service copy of the order to show cause was returned to the Office of the Clerk of Court as the defendant is no longer at the Fulton County Jail.

Simply put, the court does not know the present whereabouts to this plaintiff who has had no contact with the court in almost one year. The plaintiff has already had another case pending

in this court dismissed for this same reason (See, Tolbert v. Peete, 7:05-cv-111(HL)). The above recited chronology of events causes one to speculate that plaintiff's apparent taste of freedom has dimmed his ardor to pursue these cases in this court. He was previously warned that his failure to keep the court advised of his current address at all times during the pendency of this matter could lead to a dismissal of his complaint. The undersigned sees no other reasonable alternative. Accordingly fore the reasons set out above it is the **RECOMMENDATION** of the undersigned that plaintiff's complaint be dismissed for his failure to keep the court advised of his current address. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, Chief United States District Judge, **WITHIN TEN (10) DAYS** of receipt thereof.

SO RECOMMENDED, this 12th day of September 2006.

/s/ Richard L. Hodge

RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE